

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in sections 8(b)(1) (C), (D), (E), (F), (G), (I), (J), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I), (J) and 50-319 (2009 Repl.), and D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); section 12 of the 1919 District of Columbia Taxicab Act, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); and section 6052 of the District of Columbia Taxicab Commission Fund Amendment Act of 2012 (“Commission Fund Amendment Act”), effective September 20, 2012 (amending D.C. Official Code § 50-320(a)) hereby gives notice of proposed rulemaking action taken on January 30, 2013, to establish a new Chapter 16 (Dispatch Services) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

Through this Notice, the Commission invites public comments prior to the publication of a Notice of Proposed Rulemaking in the *D.C. Register*. Directions for submitting comments may be found at the end of this Notice. The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

The Commission intends to add Chapter 16, DISPATCH SERVICES of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, to read as follows:

CHAPTER 16 DISPATCH SERVICES

1600 APPLICATION AND SCOPE

- 1600.1 The purpose of this chapter is to establish substantive rules governing the administration and operation of dispatch services for public vehicles-for-hire, including rules to ensure the safety of passengers and operators, for consumer protection, and to collect a passenger surcharge.
- 1600.2 The provisions of this Chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985, D.C. Official Code §§ 50-301 *et seq.* (2012 supp.).
- 1600.3 In the event of a conflict between a provision of this Chapter and a provision of another Chapter of this Title, the more strict provision shall control.

1601 GENERAL REQUIREMENTS

- 1601.1 An individual or entity may be operate a dispatch service in combination with another service relating to public vehicles-for-hire (such as a taxicab company),

provided such other service is in compliance with this Title and other applicable laws, and may share a place of business with such other services provided such place of business is in compliance with this Title and other applicable laws, including the requirement for a certificate of occupancy from the Department of Consumer and Regulatory Affairs.

- 1601.2 A central dispatch service (“CDS”) may be approved by the Office of Taxicabs (“Office”) to provide the service and support for one or more modern taximeter systems (“MTS”) for taxicabs pursuant to Chapter 6 of this Title.
- 1601.3 A digital dispatch service (“DDS”) may be approved by the Office to provide the service and support required for one or more MTSs for taxicabs pursuant to Chapter 6 of this Title, or to provide the service and support for one or more sedan payment systems for sedans pursuant to Chapter 14 of this Title.
- 1601.4 Each dispatch service shall maintain a bona fide administrative office or a registered agent authorized to accept service of process, as required by the applicable provisions of Chapters 5, 6, or 14 of this Title.
- 1601.5 Each dispatch service shall maintain a customer service telephone number for passengers with a “202” or toll-free area code or an email address posted on its website that is answered or replied to promptly during normal business hours and that outside normal business hours accepts messages that are returned promptly.
- 1601.6 A dispatch service shall charge a passenger the following fares and charges for a trip in a dispatched vehicle:
 - (a) For taxicab service, the fares and charges permitted by Chapters 6 and 8 of this Title; and
 - (b) For sedan service, fares and charges that:
 - (1) Shall be calculated based on time and distance, except for a fare approved by the Office in an administrative order for a trip to an airport or for another point-to-point trip based on a well-traveled route or an event-related trip;
 - (2) May be increased by the application of surge or demand pricing, provided the time and area to which it applies is posted on the DDS website at the time of booking, and is included in any estimated fare provided to the passenger;
 - (3) Shall be consistent with the DDS statement of its fare calculation method posted on its website pursuant to § 1601.7;

- (4) Shall not exceed an estimated fare provided to the passenger by more than twenty (20) percent or twenty-five dollars (\$25.00), whichever is less;
- (5) May include a gratuity provided the passenger is permitted to pay no gratuity and the amount of the gratuity is determined by the passenger; and
- (6) Shall include the passenger surcharge.

1601.7 Each dispatch service shall maintain a website that includes:

- (a) The name of the dispatch service;
- (b) Contact information for its bona fide administrative office or registered agent authorized to accept service of process;
- (c) The dispatch service customer service telephone number or email address;
- (d) A statement of the fares and charges permitted by pursuant to § 1601.6 (b)(1),
- (e) The following statement prominently displayed:

Sedan service in Washington, D.C. is regulated by:
District of Columbia Taxicab Commission
2041 Martin Luther King Jr., Ave., S.E., Suite 204
Washington, D.C. 20020
Internet: <http://dctaxi.dc.gov/>
Email: dctc3@dc.gov
Toll-Free Telephone: 1-855-484-4966
TTY: 711

1601.8 Each dispatch service shall comply with §§ 508 through 513 of this Title to the same extent as a taxicab company.

1601.9 A dispatch service shall not release information to any person that would result in a violation of a passenger's personal privacy or threaten the safety of a passenger or an operator, or release or permit an unauthorized person to gain access to, real-time information about the location, apparent gender, or number of passengers awaiting pick up. This Section shall not limit access to information by public vehicle inspection officers and other law enforcement personnel, or by other authorized officials of the Office.

- 1601.10 Each dispatch service shall store its business records in a safe and secure manner, and in compliance with industry best practices and applicable Federal and District law, make its business records reflecting compliance with this Title by the dispatch service and by its associated organizations, operators, and vehicles available for inspection and copying during regular business hours at the Office or at its bona fide administrative office, if maintained, within five (5) business days of its receipt of a written demand from the Office, and retain its business records for at least five (5) years.
- 1601.11 A dispatch service shall notify the Office if it learns of a security breach as to which a report must be made pursuant to the D.C. Consumer Personal Information Security Breach Notification Act of 2006, D.C. Official Code § 28-3851, *et seq.* or applicable Federal law.
- 1601.12 A dispatch service shall only use technology that meets OWASP security guidelines, and complies with the current standards issued by the Council for payment card data security (“PCI Standards”) and applicable guidelines of the Council for other forms of cashless payment if no such standards exist, and, for direct debit transactions, complies with the rules and guidelines of the National Automated Clearing House Association.

1602 AUTHORITY TO OPERATE

- 1602.1 No individual or entity may operate a CDS without a Certificate of Operating Authority issued pursuant to Chapter 5 of this Title.
- 1602.2 No individual or entity may operate a DDS without a Certificate of Registration (“COR”) issued pursuant to this Section.
- 1602.3 An authorized representative of a business offering a digital dispatch service may submit an application for a certificate of registration by filing an application with the Office under penalty of perjury, paying an application fee of one-thousand dollars (\$1,000.00), and providing:
- (a) The name and contact information for the applicant, and for the DDS and its owner and operator;
 - (b) The name and contact information of other public vehicle-for-hire businesses or services associated with the DDS (such as a taxicab company), if any;
 - (c) The contact information for the bona fide administrative office or registered agent authorized to accept service of process;
 - (d) The customer service telephone number or email address;

- (e) The URL for the website;
- (f) The tradenames used by the DDS for the services it offers within and outside the District;
- (g) The names and versions of the mobile and Web applications currently used or offered for by the DDS;
- (i) The documentation showing the DDS is licensed to do business in the District of Columbia;
- (j) A certification that the DDS is in compliance with the clean hands requirements of D.C. Official Code § 47-2862 (2011 supp.); and
- (k) An indication of whether the DDS expects to seek approval from the Office to provide digital dispatch of taxicabs, sedans, or both.

1602.4 An applicant for a renewal COR shall provide the following:

- (a) The information or documentation required for an application for a new COR to the extent required by the Office; and
- (b) A list of any incidents since the prior COR was issued involving:
 - (1) A payment dispute of twenty-five dollars (\$25.00) or more for a taxicab trip or fifty dollars (\$50.00) or more for a sedan trip;
 - (2) Fraud, misrepresentation, or criminal activity;
 - (3) Failure to provide a wheelchair-accessible vehicle if one was available; or
 - (4) Failure to comply with the anti-discrimination rules of Chapter 5 of this Title.

1602.5 The Office shall verify all information and documentation provided by the applicant for a new or renewal application, and may require the applicant to provide additional information to complete the application.

1602.6 A decision to grant or deny a new or renewal application shall be made by the Office within thirty (30) days of the filing of the application, except that this time may be extended by the Office for fifteen (15) days upon written notice to the applicant.

1602.7 If the Office grants an application, it shall issue a new or renewal COR in a form setting forth such information as the Office deems appropriate.

- 1602.8 If the Office denies an application on any ground, it shall summarize the reasons for its decision in writing. A denial may be appealed to the Chairman within fifteen (15) business days, and, otherwise, shall constitute a final decision of the Commission. The Chairman shall issue a decision on an appeal within thirty (30) days. A timely appeal of a denial shall extend a DDS' privilege to operate under its existing COR pending the Chairman's decision on the appeal. A decision of the Chairman to affirm or reverse a denial shall constitute a final decision of the Commission. A decision of the Chairman to remand a denial with instructions to the Office shall extend a DDS' privilege to operate under its existing COR pending the final decision of the Office or of the Chairman, if a subsequent denial is also appealed.
- 1602.9 A new COR shall be effective for one (1) year from the date of its issuance.
- 1602.10 An application for a renewal COR shall be filed not less than forty-five (45) days prior to the expiration of an existing COR, but this deadline may be extended for good cause shown.
- 1602.11 While an application for a new COR is pending, any material change in the information required by this Section, or any change in identifying or contact information relating to persons, entities, or vehicles shall be reported to the Office within three (3) business days.
- 1602.12 The Office shall deny an application that contains or as to which materially false information was provided to induce approval.

1603 PROHIBITIONS

- 1603.1 No person or entity shall operate a dispatch service or dispatch a public vehicle-for hire in the District of Columbia except as provided in this Chapter.
- 1603.2 No dispatch service may violate a provision of this Chapter, or of any Chapter of this Title applicable the dispatch services it offers in the District of Columbia.
- 1603.3 No dispatch service may charge a passenger for a fare or charge not authorized by Chapter 14 for sedans, or by Chapter 8 for taxicabs.
- 1603.4 No dispatch service may through an agreement with any person or entity, including by a user agreement with passengers: alter its legal obligations under this Title or other applicable law, or impose an obligation that is contrary to public policy or that results in a threat to passenger or operator safety, or to consumer protection.
- 1603.5 A dispatch service shall be in compliance with all applicable provisions of this Title and other laws applicable to public vehicles-for-hire, including all reciprocal

agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828 of this Title.

- 1603.6 A dispatch service and its owner, operator, employee, agent, and representative shall, at all times, cooperate with the instructions of public vehicle enforcement inspectors and other law enforcement officers, and authorized officials of the Office and General Counsel to the Commission.
- 1603.7 A dispatch service shall provide service throughout the entire District of Columbia.
- 1603.8 A dispatch service and its associated operators shall not rate or evaluate passengers, provided however, that a DDS may permit its associated operators to rate a passenger provided such passenger's rating may be viewed on its website or through other readily-available means by the passenger at any time and is not disclosed to an operator dispatched for such passenger until after the operator has accepted the booking.
- 1603.9 A dispatch service shall not associate or attempt to associate with a taxicab operator who is already associated with a taxicab company that provides dispatch service without the written consent of such taxicab company.
- 1603.10 A dispatch service shall require a booked operator to pick up the passenger at the time and location agreed in the dispatch.

1604 ENFORCEMENT

- 1604.1 The enforcement of any provision of this Chapter shall be governed by the procedures set forth in Chapter 7 of this Title.

1605 PENALTIES

- 1605.1 A dispatch service that violates this Chapter shall be subject to:
- (a) A civil fine of \$500, which shall double for the second violation of the same provision, and triple for each violation of the same provision thereafter;
 - (b) Suspension, revocation, or non-renewal of a Certificate of Registration or Certificate of Operating Authority;
 - (c) Any penalty available under Chapter 6 in connection with the service and support of an MTS for the operation of taxicabs or under Chapter 14 in connection with the service and support of an SPS for the operation of sedans; or

(d) Any combination of the sanctions listed in this Subsection.

1699 DEFINITIONS

1699.1 The terms “cashless payment,” “modern taximeter system,” “MTS,” “payment service provider” and “PSP” shall have the meanings ascribed in Chapter 6 of this Title.

1699.2 The term “sedan” shall have the meaning ascribed to it in Chapter 12 of this Title.

1699.3 The terms “digital payment,” “sedan payment system,” and “SPS” shall have the meaning ascribed to them in Chapter 14 of this Title.

1699.4 The following words and phrases shall have the meanings ascribed:

“Associate” means employed by, contracted with, affiliated with, or owned by, connoting a voluntary legal relationship.

“Central dispatch” means dispatch via telephone, radio, or other non-digital means.

“Digital dispatch” means dispatch via computer, mobile phone application, text, email, or Web-based reservation.

“Digital payment” means a non-cash payment other than cashless payment as defined in Chapter 6, such as a payment by near-field device, or by a payment card (credit or debit card without regard to whether an account is created by the passenger) processed via a mobile- or Web-based application.

“Dispatch” means the booking of a trip in a public vehicle-for-hire through an advance reservation provided by a dispatch service, containing any type, number, or order of communications, which may include advertising, public service announcements, or other content determined by the dispatch service, and which shall include, in the following order:

- (a) a communication between the passenger and the dispatch service during which the passenger shall be permitted to request a wheelchair-accessible vehicle, if available;
- (b) an offer of service by the dispatch service to the passenger, which, if made for sedan service, shall disclose the fare calculation method using the fare information posted at that time on the dispatch service website, and give the passenger an estimated fare if requested;
- (c) an acceptance of service by the passenger; and

- (d) an acknowledgement by the dispatch service with an estimated time of arrival of the booked vehicle.

“Passenger surcharge” means a surcharge required to be collected and remitted to the Office for each trip in a taxicab or sedan, in an amount established by Chapter 6 for taxicabs, and by Chapter 14 for sedans.

Copies of the intended rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the intended rulemaking should submit written comments via e-mail to dctc@dc.gov or by postal mail or hand delivery to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques Lerner, Interim General Counsel and Secretary to the Commission, prior to the publication of a superseding Notice of Proposed Rulemaking in the *D.C. Register*.